

**STUDENT WELFARE: FREEDOM FROM DISCRIMINATION,
HARASSMENT, AND RETALIATION**

Note: This policy addresses discrimination, including harassment and retaliation, against District students. For provisions regarding discrimination, including harassment, and retaliation against District employees, see DIA. For reporting requirements related to child abuse and neglect, see FFG. Note that FFH shall be used in conjunction with FFI (bullying) for certain prohibited conduct. This policy is consistent with *Tex. v. Cardona*, No. 4:23-CV-00604-O, 2024 WL 2947022 (N.D. Tex. June 11, 2024).

Prohibited Conduct

In this policy, the term “prohibited conduct” includes discrimination, harassment, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

Prohibited conduct also includes discrimination on the basis of sex as defined by Title IX. [See FFH(LEGAL)]

**Statement of
Nondiscrimination**

The District prohibits discrimination, including harassment, against any student. Discrimination is defined as treating a student or group of students differently from similarly situated students on the basis of race, color, religion, sex, national origin, age, disability, or any other basis prohibited by law. Retaliation against anyone exercising their rights under this policy is a violation of District policy and is prohibited.

**Non-Sex-Based
Harassment**

Harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student's race, color, religion, national origin, age, disability, or any other basis prohibited by law, when the conduct is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

**Title IX: Sex-Based
Discrimination**

As required by law, the District shall follow the procedures below at Response to Title IX Sex-Based Discrimination when allegations, if proved, would meet the definition of sex-based discrimination in an education program or activity and against a person under Title IX. [See FFH(LEGAL)]

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*Sex-Based
Harassment*

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, and pregnancy or related conditions.

*Quid Pro Quo
Harassment*

Quid pro quo harassment occurs when a District employee, agent, or other person authorized by the District to provide an aid, benefit, or service under the District's education program or activity explicitly or impliedly conditions the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

*Hostile
Environment*

Hostile environment harassment is unwelcome sex-based conduct that is subjectively and objectively offensive and is so severe or pervasive that it limits or denies the student's ability to participate in or benefit from an educational program or activity, which is determined by considering:

- (i) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties' ages, roles within the District, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment, if any, in the District.

**Specific
Offenses**

Specific Offenses include:

- (i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
- (ii) Dating violence meaning violence committed by a person:
 - a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship;

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- ii. The type of relationship; and
 - iii. The frequency of interaction between the persons involved in the relationship;
- (iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:
- a. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
 - b. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - c. Shares a child in common with the victim; or
 - d. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- (iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- a. Fear for the person's safety or the safety of others; or
 - b. Suffer substantial emotional distress.

Romantic or other inappropriate social relationships between students and District employees are also prohibited. Any sexual relationship between a student and a District employee is always prohibited, even if consensual. [See DH]

**Reporting
Procedures**

Student Report

Any student who believes that they have experienced prohibited conduct and any person who believes that a student has experienced prohibited conduct should promptly report the alleged acts to a teacher, school counselor, principal, other District employee, or the appropriate District official listed in this policy.

Employee Report

Any District employee who suspects or receives direct or indirect notice that a student or group of students has or may have experienced prohibited conduct shall promptly notify the appropriate District official listed in this policy and take any other steps required by this policy.

Definition of District
Officials

For the purposes of this policy, District officials are the Title IX coordinator and campus administrators, the ADA/Section 504 coordinator, and the Superintendent.

Reports of discrimination based on sex, including sexual harassment, or dating violence, may be directed to the designated Title IX

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| <i>Title IX Coordinator</i> | coordinator for students or campus administrators who the Title IX Coordinator appoints to be designees. [See FFH(EXHIBIT)] |
| <i>ADA / Section 504 Coordinator</i> | Reports of discrimination based on disability may be directed to the designated ADA/Section 504 coordinator for students. [See FFH(EXHIBIT)] |
| <i>Superintendent</i> | The Superintendent shall serve as coordinator for purposes of District compliance with all other nondiscrimination laws. |
| Alternative Reporting Procedures | <p>An individual shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the Title IX coordinator or ADA/Section 504 coordinator, may be directed to the Superintendent.</p> <p>A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.</p> |
| Timely Reporting | To ensure the District's prompt investigation, reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. |
| Notice to Parents | The District official or designee shall promptly notify the parents of any student alleged to have experienced prohibited conduct by a District employee or another adult or alleged to have experienced dating violence. [For parental notification requirements regarding an allegation of educator misconduct with a student, see FFF] |
| Initial Assessment | <p>The District may request, but shall not require, a written report. If a report is made orally, the District official shall reduce the report to written form.</p> <p>Upon receipt or notice of a report, the District official shall determine whether the allegations, if proved, would constitute prohibited conduct as defined by this policy. If so, the District shall immediately undertake an investigation, except as provided below at Criminal Investigation.</p> <p>If the District official determines that the allegations, if proved, would not constitute prohibited conduct as defined by this policy, the District official may refer the complaint for consideration under FFI when bullying is alleged.</p> |
| Interim Action | If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the District shall promptly take interim action calculated to address prohibited conduct or bullying prior to the completion of the District's investigation. |

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District
Investigation/Deter-
mination of
Responsibility

The investigation may be conducted by the appropriate District official identified in this policy or a designee, such as a campus administrator, or by a third party designated by the District, such as an attorney. When appropriate, the campus administrator shall be involved in or informed of the investigation. The District official who investigates shall also be responsible for making a determination of responsibility regarding the allegations.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

Criminal
Investigation

If a law enforcement or regulatory agency notifies the District that a criminal or regulatory investigation has been initiated, the District shall confer with the agency to determine if the District investigation would impede the criminal or regulatory investigation. The District shall proceed with its investigation so long as it does not impede the ongoing criminal or regulatory investigation. The District shall promptly resume its investigation once the investigation is no longer impeding law enforcement or the regulatory agency.

Concluding the
Investigation

Absent extenuating circumstances, such as a request by a law enforcement or regulatory agency for the District to delay its investigation, the investigation should be completed within fifteen District business days from the date of the report; however, District official shall take additional time if necessary to complete a thorough investigation.

The investigator shall also serve as the decisionmaker for purposes of determining whether discrimination has occurred, and shall prepare a written investigative report that contains both the details of the investigation and a determination of whether prohibited conduct occurred.

*Notification of
Determination*

The District shall notify the parties in writing of the determination whether discrimination occurred including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal. A copy of the report shall also be provided to the appropriate District official depending on the type of complaint.

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| District Action | If the District official determines that prohibited conduct occurred, the District shall promptly respond by taking appropriate disciplinary action in accordance with the Student Code of Conduct reasonably calculated to address the conduct and prevent recurrence, and provide remedies to the Complainant. |
| <i>Prohibited Conduct</i> | |
| <i>Bullying</i> | If the results of an investigation indicate that bullying occurred, as defined by FFI, the District official shall refer to FFI for appropriate notice to parents and District action. The District official shall refer to FDB for transfer provisions as applicable. |
| <i>Improper Conduct</i> | If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or bullying, the District may take disciplinary action in accordance with the Student Code of Conduct or other corrective action reasonably calculated to address the conduct. |
| Confidentiality | To the greatest extent possible, the District shall respect the privacy of Complainant, Respondent, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law. The District has not designated any employees as “confidential employees” under Title IX. |
| Appeals Process | <p>A student or parent who is dissatisfied with the outcome of the investigation may appeal through the Appeals Process further outlined in the corresponding administrative regulation). A student or parent also has the right to file a complaint with the United States Department of Education Office for Civil Rights.</p> <p>An appeal must be in writing (on a form provided by the District) and filed with the appropriate District official within ten business days. Appeals can be taken from three different points in the process: after a dismissal of a complaint, after the implementation of supportive measures, or after the issuance of the determination of responsibility in the investigative report. Grounds for appeal are limited to:</p> <ol style="list-style-type: none">1. A procedural irregularity that would change the outcome of the matter;2. New evidence was discovered that was not reasonably available at the time of the determination of responsibility or dismissal that would change the outcome of the matter; or3. A conflict of interest on the part of a District official directly involved in the grievance procedure that would change the outcome. |

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The person who decides the appeal shall not be the same person who reached the determination regarding responsibility. After considering the parties' written statements, the appellate decisionmaker shall issue a written decision and send it to the parties. The District's determination about whether a respondent is responsible for the discrimination becomes final after appeal.

A respondent who is an employee may be subject to disciplinary actions pursuant to the District's employment policies.

The appellate decisionmaker's decision may be appealed to the Board of Trustees by filing a written appeal with the superintendent within three days after receipt of the decision. The written appeal must state all the bases for appeal and the remedy the student or parent is seeking. At a Board meeting after the appeal is received and for which proper notice can be posted, the Board will review the complete record of the investigation and determination, including the former written appeal. The Board may choose to take no action after reviewing the record and appeal, which has the effect of sustaining the last administrative decision. The Board may also choose to schedule an appeal at a future meeting at which the parents and administration may make an oral presentation. The Board's decision in either case is final and may not be appealed.

**Response to Title IX
Sex Discrimination**

Supportive
Measures

For purposes of the District's response to reports of harassment prohibited by Title IX, definitions can be found in FFH(LEGAL).

When the District receives notice of an allegation of conduct that, if proved, would meet the definition of sex-based discrimination under Title IX, the Title IX coordinator shall promptly contact the complainant to:

- Discuss the availability of supportive measures and inform the complainant that they are available, with or without the initiation of a complaint;
- Consider the complainant's wishes with respect to supportive measures.

The District's response to sex discrimination shall treat complainants and respondents equitably by offering supportive measures to the Complainant and to the Respondent, as appropriate, and by following the discrimination grievance procedure before imposing disciplinary sanctions or other actions that are not supportive measures against a Respondent.

Discrimination
Grievance
Procedure

To distinguish the procedures described herein from the District's general grievance policies [see DGBA, FNG, and GF], this policy contains the grievance procedure for responding to complaints of discrimination.

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Administrators shall abide by the following principles when investigating claims of discrimination and handling appeals of decisions related to these claims:

1. Equitable treatment of complainants and respondents;
2. An objective evaluation of all relevant, permissible evidence;
3. A requirement that District official who handles the investigation or any person designated to facilitate an informal resolution process not have a conflict of interest or bias;
4. A presumption that the respondent is not responsible for the alleged discrimination until a determination is made at the conclusion of the grievance procedure;
5. Time frames that provide for a reasonably prompt conclusion of the grievance procedure, including time frames for appeals and informal resolution process, and that allow for temporary delays or the limited extension of time frames with good cause and written notice as required by law;
6. A description of the possible disciplinary sanctions and remedies that may be implemented following a determination of responsibility for the alleged discrimination;
7. A requirement that the District shall take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedure;
8. Procedures and permissible bases for the complainant and respondent to appeal a determination of responsibility, supportive measures, or a dismissal of a grievance;
9. A description of the supportive measures available to the complainant and respondent;
10. Additional complaint procedures in 34 C.F.R. 106.45, including consolidation of complaints, recordkeeping, and investigation procedures; and
11. Other local procedures as determined by the Superintendent.

Standard of Evidence

The standard of evidence used to determine responsibility in a discrimination grievance procedure shall be the «».

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Informal Resolution Process

The District may offer informal resolution in appropriate cases except where the respondent is an employee of the District. Informal resolution may be attempted only if each party enters the process completely voluntarily. The District shall never force, threaten, or require any party to participate in an informal resolution process.

The District shall provide a specially trained official to conduct the informal resolution process who is free from conflicts of interest or bias. All parties shall be provided with notice of the allegations, notice of their rights, information about whether an informal process is confidential, and about withdrawing from the process.

The District may abate the investigation for two weeks for the parties to engage in informal resolution or longer if by agreement of the parties.

Retaliation

The District prohibits retaliation by a student or District employee against a student alleged to have experienced discrimination or harassment, including dating violence, or another student who, in good faith, makes a report of harassment or discrimination, files a complaint of harassment or discrimination, serves as a witness, or participates in an investigation. The definition of prohibited retaliation under this policy also includes retaliation against a student who refuses to participate in any manner in an investigation under Title IX. Allegations of retaliation shall be investigated under discrimination grievance procedure described above.

False Claim or Consensual Sexual Conduct

A student who intentionally makes a false claim or offers false statements in a District investigation regarding sex-based discrimination or harassment, including dating violence, or who engages in consensual sexual conduct shall not be subject to disciplinary action based solely on the District's determination of whether sex-based discrimination occurred, but may be subject to other appropriate actions under the Student Code of Conduct dependent upon the circumstances.

SBEC and Do Not Hire Registry

Respondent employees who are found to have engaged in Reportable Misconduct under DFB shall be reported to the State Board of Educator Certification or the Texas Education Agency for the Do Not Hire Registry consistent with state regulations.

Records Retention

The District shall retain copies of allegations, investigation reports, and related records regarding any prohibited conduct in accordance with the District's records control schedules, but for no less than the minimum amount of time required by law. [See CPC]

[For Title IX recordkeeping and retention provisions, see FFH (LEGAL) and the District's discrimination grievance procedure.]

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**Access to Policy and
Procedures**

Information regarding this policy and any accompanying procedures shall be distributed annually in the employee and student handbooks. Copies of the policy and procedures shall be readily available at the District's administrative offices.